



Periodic Review / Retain Regulation Agency Background Document

Agency name	Alcoholic Beverage Control Board
Virginia Administrative Code (VAC) citation	3 VAC5-10
Regulation title	Procedural Rules for the Conduct of Hearings before the Board and its Hearing Officers.
Document preparation date	May 30, 2012

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Section 4.1-103 of the Code of Virginia provides the board and its authorized agents with the power to hold and conduct hearings, issue subpoenas, administer oaths and take testimony. Section 4.1-111 authorizes the board to promulgate reasonable regulations which it deems necessary to carry out the provisions of Title 4.1 of the Code of Virginia.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No viable alternative to procedural rules governing the conduct of hearings was identified. Each section of the regulation was examined. No unusual burden was identified as connected to the operation of any section. The regulation largely tracks the minimum requirements of the Alcoholic Beverage Control Act and the Administrative Process Act.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response

No public comment was received following the publication of the Notice of Periodic Review. An informal advisory group was formed for purposes of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation is necessary for the protection of public health, safety, and welfare. It provides for an orderly hearing process for contested application cases and licensee disciplinary matters. It is clearly written and easily understandable.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency is recommending that the regulation should stay in effect without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been

evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

The regulation continues to be needed. Hundreds of cases are considered by the board and its hearing officers each year, and procedural rules to bring order to the process are necessary. There have been no complaints or comments received concerning the regulation from the public. The regulation, while technical, is not particularly complex, and it does not overlap, duplicate, or conflict with federal or state law or regulation. It was last reviewed and amended in 2007, and there have not been significant changes in technology, economic conditions, or other factors in the area affected by the regulation.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

The regulation has no impact on the institution of the family and family stability.